

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

L.C. BROWN,

Petitioner,

Case Number: 2:10-CV-14661

v.

HON. LAWRENCE P. ZATKOFF

CATHERINE BAUMAN,

Respondent.

**OPINION AND ORDER TRANSFERRING CASE TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Petitioner L.C. Brown is currently incarcerated at the Alger Correctional Facility in Munising, Michigan. He has filed a *pro se* petition for a writ of habeas corpus. For the reasons set forth below, the Court determines that this is a successive habeas corpus petition and, therefore, orders it transferred to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631¹ and 28 U.S.C. § 2244(b)(3)(A).

In the pending petition, Petitioner challenges his convictions for second-degree murder and felony firearm, rendered in Wayne County Circuit Court. He was sentenced to life imprisonment for the murder conviction and two years' imprisonment for the felony-firearm conviction.

In 2003, Petitioner filed a habeas corpus petition in this district, challenging the same

¹ 28 U.S.C. § 1631 provides, in relevant part:

Whenever a civil action is filed in a court . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed . . .

convictions challenged in the pending petition. That matter was assigned to the Honorable Marianne O. Battani. The District Court denied the petition with prejudice because Petitioner could not prevail on the merits of any of the claims raised. *See Brown v. Jackson*, No. 03-cv-60137 (E.D. Mich. July 19, 2004).

Before a prisoner may file a habeas petition challenging a conviction already challenged in a prior habeas petition, the prisoner must “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained from the Court of Appeals for the Sixth Circuit authorization to file a second or successive petition in this Court. The Sixth Circuit has held that “when a second or successive petition for habeas corpus relief or § 2255 motion is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631.” *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, **IT IS ORDERED** that the petition for a writ of habeas corpus be **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 20, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 20, 2010.

S/Marie E. Verlinde
Case Manager
(810) 984-3290